IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

FRIDAY, THE 29TH JUNE 2007 / 8TH ASHADHA 1929

CRP.No. 592 of 2007()

AGAINST THE ORDER DATED 31/05/2007 IN EP 136/2006 IN OS.287/1998 of MUNSIFF COURT,MUVATTUPUZHA
.....

REVN. PETITIONER: JDEGMENT-DEBTOR

P.N.VIJAYAN, S/O.NARAYANAN,
KARIKKUZHIYIL, KUNNACKAL P.O., VALAKAM VILLAGE.

BY ADV. SRI.M.K.DILEEPAN
SRI.DEEPAK T.NEDUNGADAN
SMT.P.SUMITHRA

RESPONDENT: DECREE HOLDER

DAMODARAN, S/O.P.C.MENON,
RESIDING AT SARAD SADAN, ARCHANA COLONY,
AKATHETHARA, PALAKKAD.

BY

THIS CIVIL REVISION PETITION HAVING COME UP FOR ADMISSION ON 29/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

M.N. KRISHNAN, J.

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C.R.P. NO. 592 OF 2007

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Dated this the 29th day of June, 2007.

O R D E R

This revision petition is preferred against the order of the Munsiff, Muvattupuzha in E.P.136/06. The execution was launched for realisation of the amount by detention of the revision petitioner in civil prison. The decree holder contended that the judgment debtor is having 2 acres of land and is also having a monthly income of Rs.10,000/- from other sources.

2. The learned counsel for the revision petitioner would submit that he was running an SSI unit in Palakkad and at that time there were some extent of land and as he did not repay the amount the Kerala Financial Corporation took over that land and sold it and therefore the judgment debtor at present is not having any property. It is also submitted by him that he is only going for fabrication work and he is not having considerable income. The learned counsel would submit that there are documents to show that the property owned by him for the SSI unit had been taken over by the Financial Corporation and he will be able to produce documents. If it is so, it is a matter that requires consideration. Even the order of the Court below would reveal that the Court was not very much satisfied with the evidence, that is why in

paragraph 9 of the order it has stated that "The decree holder is not supposed to adduce concrete evidence." It is not correct and really there must be concrete and clinching evidence to prove the means. Therefore, the order under challenge is set aside and the matter is remitted back to the executing Court for fresh disposal after affording both the judgment debtor as well as the decree holder to adduce evidence in support of their respective contentions.

3. Since I am disposing of the matter at the admission stage and as notice is not issued the executing Court is directed to give notice of hearing to the decree holder before proceeding further in the matter. The revision petitioner is directed to appear before the Court below on 30/7/2007.

The C.R.P. is disposed of accordingly.

M.N. KRISHNAN, JUDGE.

ul/-